

NO. 25277

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellant

vs.

PIO KAPELI, Defendant-Appellee

APPEAL FROM THE THIRD CIRCUIT COURT
(CR. NO. 01-1-0381)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that we do not have jurisdiction over the appeal by Plaintiff-Appellant State of Hawai'i (Appellant State) from the August 9, 2002 order granting Defendant-Appellee Pio Kapeli's (Appellee Kapeli) motion to withdraw his guilty plea. "The Prosecution's right of appeal in criminal cases is limited to those instances set forth in HRS § 641-13." State v. Fukusaku, 85 Hawai'i 462, 490, 946 P.2d 32, 60 (1997) (citations, internal quotation marks, and brackets omitted). The language in HRS § 641-13 (1993) "must be strictly construed and . . . cannot be extended beyond the plain meaning of the terms found therein." State v. Kahalewai, 71 Haw. 624, 626, 801 P.2d 558, 560 (1990) (citations and internal quotation marks omitted). HRS § 641-13 (1993) does not authorize Appellant State to appeal from the August 9, 2002 order granting Appellee

Kapeli's motion to withdraw his guilty plea. Therefore,

IT IS HEREBY ORDERED that Appellant State's appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, November 19, 2002.